

State Antidegradation Rule - 10 CSR 20-7.031(2)

(2) Antidegradation. The antidegradation policy shall provide three (3) levels of protection.

(A) Tier One. Public health, existing in-stream water uses and a level of water quality necessary to protect existing uses shall be maintained and protected.

(B) Tier Two. For all waters of the state, if existing water quality is better than applicable water quality criteria established in these rules, that existing quality shall be fully maintained and protected. Water quality may be lowered only if the state finds, after full satisfaction of the intergovernmental coordination and public participation requirements, that the lowered water quality is necessary to allow important economic and social development in the geographical area in which the waters are located. In allowing the lowering of water quality, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control before allowing any lowering of water quality. This provision allows a proposed new or modified point or

nonpoint source of pollution to result in limited lowering of water quality provided that—

1. The source does not violate any of the general criteria set forth in section (3) of this rule, or any of the criteria for protection of beneficial uses set forth in section (4) of this rule;

2. The source meets all applicable technological effluent limitations and minimum standards of design for point sources or minimum pollution control practices for nonpoint sources; and

3. The lowering of water quality, in the judgment of the department, is necessary for the accommodation of important economic and social development in the geographical vicinity of the discharge. In making a preliminary determination based on socioeconomic development considerations, the department may consider the potential for regional increases in utility rates, taxation levels or recoverable costs associated with the production of goods or services that may result from the imposition of a strict no-degradation policy. Consideration may also be given to the possible indirect effects of a policy on per capita income and the level of employment in the geographical vicinity of the proposed pollution source. Any preliminary decision by the department to allow a limited lowering of water quality will be stated as such in a public notice issued pursuant to 10 CSR 20-6.010. Pursuant to that provision, a public hearing will be held in the geographical vicinity of the proposed pollution source, if the department determines there is significant public interest in and need for a hearing.

(C) Tier Three. There shall be no lowered water quality in outstanding national resource waters or outstanding state resource waters, as designated in Tables D and E.

(D) The three (3) levels of protection provided by the antidegradation policy in subsections (A) through (C) of this section shall be implemented according to procedures developed by the department. The antidegradation implementation procedure shall go through stakeholder development and the finalized procedure shall be referenced by this rule before it becomes effective.